

month periodic report on the national emergency with respect to Sudan that was declared in Executive Order 13067 of November 3, 1997, based upon information made available to me.

George W. Bush

The White House,
October 31, 2001.

NOTE: This message was released by the Office of the Press Secretary on November 1.

Statement on Strengthening the International Regime Against Biological Weapons

November 1, 2001

Disease has long been the deadliest enemy of mankind. Infectious diseases make no distinctions among people and recognize no borders. We have fought the causes and consequences of disease throughout history and must continue to do so with every available means. All civilized nations reject as intolerable the use of disease and biological weapons as instruments of war and terror.

For almost 30 years, the vast majority of nations has banned all biological weapons, in accordance with the 1972 Biological and Toxin Weapons Convention (BWC). This landmark accord—now with 144 nations as parties—prohibits the possession of all biological weapons.

Before the BWC, the United States had independently and unconditionally renounced the possession and use of biological weapons. The United States unilaterally destroyed its biological weapons stockpiles and dismantled or converted to peaceful uses the facilities that had been used for developing and producing them.

Today, we know that the scourge of biological weapons has not been eradicated. Instead, the threat is growing. Since September 11, America and others have been confronted by the evils these weapons can inflict. This threat is real and extremely dangerous. Rogue states and terrorists possess these weapons and are willing to use them.

The United States is committed to strengthening the Biological Weapons Convention (BWC) as part of a comprehensive

strategy for combating the complex threats of weapons of mass destruction and terrorism. With this objective, my administration is proposing that all Parties:

- Enact strict national criminal legislation against prohibited BW activities with strong extradition requirements;
- Establish an effective United Nations procedure for investigating suspicious outbreaks or allegations of biological weapons use;
- Establish procedures for addressing BWC compliance concerns;
- Commit to improving international disease control and to enhance mechanisms for sending expert response teams to cope with outbreaks;
- Establish sound national oversight mechanisms for the security and genetic engineering of pathogenic organisms;
- Devise a solid framework for bioscientists in the form of a code of ethical conduct that would have universal recognition; and
- Promote responsible conduct in the study, use, modification, and shipment of pathogenic organisms.

I have directed my administration to consult with our friends and allies, as well as with Congress, industry, and non-governmental experts, on these proposals. We look forward to hearing the new ideas on how best to achieve our common aim of eliminating biological weapons.

Our objective is to fashion an effective international approach to strengthen the Biological Weapons Convention. The ideas we propose do not constitute a complete solution to the use of pathogens and biotechnology for evil purposes. However, if we can strengthen the Convention against the threat of biological weapons, we will contribute to the security of the people of the United States and mankind as a whole.

Statement on House Action on the Proposed “Secure Transportation for America Act”

November 1, 2001

I commend the House for passing legislation that will help ensure the safety of the

traveling public by strengthening security at America's airports. I am pleased the bill includes many of the safety measures proposed by my administration, including strong Federal oversight of airline security, an expanded Federal air marshals program, and important aircraft security enhancements.

The American people deserve tough security standards, and the House plan delivers. I urge the House and Senate to quickly work together to send a strong and effective bill to my desk.

Executive Order 13233—Further Implementation of the Presidential Records Act

November 1, 2001

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to establish policies and procedures implementing section 2204 of title 44 of the United States Code with respect to constitutionally based privileges, including those that apply to Presidential records reflecting military, diplomatic, or national security secrets, Presidential communications, legal advice, legal work, or the deliberative processes of the President and the President's advisors, and to do so in a manner consistent with the Supreme Court's decisions in *Nixon v. Administrator of General Services*, 433 U.S. 425 (1977), and other cases, it is hereby ordered as follows:

Section 1. Definitions.

For purposes of this order:

(a) "Archivist" refers to the Archivist of the United States or his designee.

(b) "Presidential records" refers to those documentary materials maintained by the National Archives and Records Administration pursuant to the Presidential Records Act, 44 U.S.C. 2201–2207.

(c) "Former President" refers to the former President during whose term or terms of office particular Presidential records were created.

Sec. 2. Constitutional and Legal Background.

(a) For a period not to exceed 12 years after the conclusion of a Presidency, the Ar-

chivist administers records in accordance with the limitations on access imposed by section 2204 of title 44. After expiration of that period, section 2204(c) of title 44 directs that the Archivist administer Presidential records in accordance with section 552 of title 5, the Freedom of Information Act, including by withholding, as appropriate, records subject to exemptions (b)(1), (b)(2), (b)(3), (b)(4), (b)(6), (b)(7), (b)(8), and (b)(9) of section 552. Section 2204(c)(1) of title 44 provides that exemption (b)(5) of section 552 is not available to the Archivist as a basis for withholding records, but section 2204(c)(2) recognizes that the former President or the incumbent President may assert any constitutionally based privileges, including those ordinarily encompassed within exemption (b)(5) of section 552. The President's constitutionally based privileges subsume privileges for records that reflect: military, diplomatic, or national security secrets (the state secrets privilege); communications of the President or his advisors (the presidential communications privilege); legal advice or legal work (the attorney-client or attorney work product privileges); and the deliberative processes of the President or his advisors (the deliberative process privilege).

(b) In *Nixon v. Administrator of General Services*, the Supreme Court set forth the constitutional basis for the President's privileges for confidential communications: "Unless [the President] can give his advisers some assurance of confidentiality, a President could not expect to receive the full and frank submissions of facts and opinions upon which effective discharge of his duties depends." 433 U.S. at 448–49. The Court cited the precedent of the Constitutional Convention, the records of which were "sealed for more than 30 years after the Convention." *Id.* at 447 n.11. Based on those precedents and principles, the Court ruled that constitutionally based privileges available to a President "survive[] the individual President's tenure." *Id.* at 449. The Court also held that a former President, although no longer a Government official, may assert constitutionally based privileges with respect to his Administration's Presidential records, and expressly rejected the argument that "only an